Roadways, Right of Way Areas, Streets & Sidewalks in Alexander County

TITLE 7: TRAFFIC CODE, Alexander County Code of Ordinances

WHEREAS, persons should be able to move freely upon the roadways, right of way areas, streets and sidewalks in Alexander County without undue interference or intimidation from other persons; and

WHEREAS, the public welfare is promoted by safe, inviting and economically healthy areas designated for commercial and residential living; and

WHEREAS, public safety requires the imposition of reasonable manner and place restrictions on solicitation, while respecting the constitutional right of free speech for all citizens.

WHEREAS, a registration requirement for solicitation will assist in providing public accountability for acts of aggressive solicitation but will not improperly impair an individual's right to engage in constitutionally-protected solicitation in public areas within Alexander County.

NOW, THEREFORE, BE IT ORDAINED BY THE ALEXANDER COUNTY BOARD OF COMMISSIONERS that:

Section 1. Intent.

The purpose of this article is to require the registration and permitting of street peddlers, beggars, door-to-door sales persons and charitable solicitors who attempt to solicit sales or contributions for their own personal gain from occupants of vehicles, pedestrians on certain streets and sidewalks and certain public places, including right-of-ways within the County of Alexander, and from door-to-door sales. Furthermore, it is the purpose of this article to thereby regulate and ensure the safety of vehicular and pedestrian traffic flow and to promote roadway safety and sidewalk

safety and to promote, protect and preserve the health, safety and general welfare of the people of the Alexander County and to help regulate public solicitation and begging. It is also the purpose of this ordinance to provide for the safety of persons in their home from unwanted door-to-door sales by unregulated and unknown persons. The provisions of this article shall not apply to bona fide members of charitable, religious, educational, civic or fraternal organizations which are exempt from the payment of privilege licenses and who receive no compensation of any kind for their services (including but not limited to, political candidates/fundraisers, The Boy Scouts of America, the Girl Scouts of America, all area churches, those engaged in lawful Halloween events, all local fundraising for sporting teams, all school related activities and fundraising events, and any other similar type organization or individual approved by the Sheriff of Alexander County)

Section 2. Registration and privilege license required for panhandling and begging.

No person shall sell, or offer goods for sale, or solicit contributions, including begging, for their own personal benefit or engage in any other similar form of commercial speech upon the Streets, Sidewalks, Roadways, Right of Ways in the County of Alexander unless such persons have previously registered therefore and obtained the panhandler privilege license required by this Ordinance. No person shall engage in door-to-door sales operations within Alexander County unless such persons have previously registered therefore and obtained the panhandler privilege license required by this Ordinance.

Section 3. Privilege license procedures.

(a) Applications for panhandler privilege licenses from individuals under this article shall be submitted to the office of the Alexander County Sheriff on forms provided by the Sheriff. The applicant shall submit with the application a criminal background history obtained from the Sheriff's Office. The applicant shall also be required to give appropriate fingerprint samples at the Sheriff's office. Thereafter, any panhandler privilege license issued shall be valid until the end of the calendar year in which said license was issued or for such other period as may be specified on the license certificate or until information is discovered that causes the licensee, in the opinion of the Sheriff to become disqualified.

In such instances of disqualification any panhandler privilege license having been issued shall be revoked by the Sheriff.

- (b) Upon receipt of information or reports of violation of this article, the Sheriff may refuse to issue, refuse to renew or may revoke privilege licenses as deemed necessary to safeguard the interest of the public and to carry out the purposes of this article, which are to promote public safety and convenience on the streets and sidewalks of the County of Alexander and to provide for the safety of persons in their home from unwanted door-to-door sales by unregulated and unknown persons.
- (c) Any panhandler privilege license issued under this article shall be non-transferable.

Section 4. Time Restrictions.

Any person who begs, panhandles or solicits alms for his or her own personal gain or engages in door-to door sales after sunset or before sunrise is guilty of a misdemeanor. Any person who begs or solicits alms for his or her own personal gain in a school zone during the time of arrival of students at the beginning of the school day and/or during the time of the departure of students at the end of the school day is guilty of a misdemeanor.

Section 5. Place.

Any person who begs or solicits alms for his or her own personal gain at or from the following places with or without a privilege license is guilty of a misdemeanor:

- 1. At any bus stop
- 2. In any public transportation vehicle or facility
- 3. From any vehicle on a street, highway, roadway or right of way
- 4. On private property without the permission of the owner
- 5. On any school property during the student arrival times or during student departure times (unless authorized by the school)
- 6. On any sidewalk adjacent to an outdoor restaurant or place where a line of patrons has formed
- 7. Within 50 feet in any direction from an automatic teller machine or entrance to a bank
- 8. Within 20 feet of any crosswalk of any kind

- While under the influence of alcohol or after having illegally used any controlled substance as defined by the North Carolina Controlled Substances Act
- 10. While the person is being solicited is standing in line waiting to be admitted to a commercial or public establishment
- 11. From any street, highway, roadway or right of way to any street, highway, or roadway
- 12. On any public library during hours of operation

Section 6. Manner.

Any person who begs or solicits alms for his or her own personal gain with or without a privilege license in any of the following manners is guilty of a misdemeanor:

- (a) By coming within three (3) feet of the person being solicited, until that person has clearly indicated that he or she wants to make a donation;
- (b) By blocking the path of the person being solicited along a sidewalk or street;
- (c) By following the person being solicited after they have walked away;
- (d) By using profane or abusive language, either during the solicitation or following a refusal;
- (e) By soliciting in a group of two (2) or more people; or
- (f) By any statement, gesture or other form of communication by which a reasonable person in the situation of the person solicited would perceive to be a threat.

Section 7. False or misleading solicitation.

- (a) Any person who knowingly makes any false or misleading representation in the course of soliciting a donation or begging for alms is guilty of a misdemeanor. False or misleading representations include, but are not limited to, the following:
- (1) Stating that the donation is needed to meet a specific need, when the solicitor already has sufficient funds to meet that need and does not disclose that fact;

- (2) Stating that the donation is needed to meet a need which does not exist;
- (3) Stating that the solicitor is 'from out of town and stranded when that is not true;
- (4) Wearing a military uniform or other indication of military service, when the solicitor is neither a present nor former member of the service indicated;
- (5) Wearing or displaying an indication of physical or mental disability, when the solicitor does not suffer the disability indicated;
- (6) Use of any makeup or device to simulate any deformity; or
- (7) Stating that the solicitor is homeless, when he or she is not.

Any person who solicits a donation stating that the funds are needed for a specific purpose and then spends the funds received for a different purpose is guilty of a misdemeanor.

Section 8. Privilege license required.

- (a) No person shall beg or solicit alms for personal gain or engage in door-to-door sales without first registering and obtaining a panhandler privilege license issued by the Sheriff of Alexander County. A person who has registered and who has been issued a panhandler privilege license shall keep it on his or her person at all times while begging or soliciting alms for personal gain or engaging in door-to-door sales and shall show it to any law enforcement officer immediately upon request. No person whose panhandler privilege license has been revoked shall beg or solicit alms or engage in door-to-door sales for a period of two (2) years following the date of the revocation. Any person who violates this subsection is guilty of a misdemeanor.
- (b) The office of the Sheriff of Alexander County shall issue a panhandler privilege license, without fee, to any eligible person (a person shall be deemed eligible once they demonstrate, to the satisfaction of the Sheriff their ability to satisfy the requirements for licensure as outlined in this chapter) who comes to the Sheriff's office and presents a picture identification issued by NCDMV and one other form of identification satisfactory to the Sheriff.
- (c) A person is not eligible for a panhandler privilege license or renewal of a panhandler privilege license if within the most recent five-year period:
- (1) The Sheriff has received information that the person has two (2) or more violations of this chapter;
- (2) The Sheriff of Alexander County has received information that the person has been convicted of two (2) or more offenses under the law of any jurisdiction which involve aggressive or intimidating behavior while begging or soliciting alms, aggravated assault, communicating threats, any other types of personal injury crimes, or the making of false or misleading representations while begging or soliciting alms, or the person has been convicted of any felony crime or similar crime in another state which would be a felony in this state; or
- (3) The person otherwise does not qualify for a privilege license in accordance with this chapter.
- (d) Any person who makes any false or misleading statement while applying for a

panhandler's privilege license under this chapter is guilty of a misdemeanor. Upon receipt of information of such a violation, the Sheriff shall decline to issue a privilege license to the offending applicant or shall revoke the license of the offending licensee.

(f) If a person applies for or is issued a privilege license under this chapter and the Sheriff receives information that the person has violated any provision of this chapter, the Sheriff shall decline to issue or shall revoke, respectively, that person's privilege license for a period of two (2) years.

Section 9. Violations.

Any violation of this article shall be a misdemeanor and may be enforced by any one or more of the remedies authorized by the provisions of

G.S. §14-4 or G.S. § 160A-175 with a maximum fine of \$50.00 for each offense. A police officer observing a violation of this article shall confiscate the panhandler privilege license and return it to the Sheriff's office. The licensee may appear before the Sheriff and show cause to the Sheriff why the license should not be revoked.

Section 10: Severability.

If any portion of this Section is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed severable, and such holding shall not affect the validity of the remaining portions hereof.

Section 11. Repealed.

All ordinances or provisions of the Alexander County Code of Ordinances which are not in conformance with the provisions of the Amendment occurring herein are repealed as of the effective date of this Ordinance.

Section 12. Effective Date.

This Ordinance shall become effective immediately upon adoption.

This Ordinance was duly adopted and passed by the Alexander County Board of Commissioners on the <u>And</u> day of December, 2010.

Chairman of the Board

Attest:

Clerk to the Board

BOARD OF COMMISSIONERS REGULAR MEETING August 15, 2011

ALEXANDER COUNTY STATE OF NORTH CAROLINA

PRESENT: W. Darrell Robertson, Chairman

Ryan Mayberry, Vice-Chairman

James "Burkie" Jennings

Judy M. Moose Larry Yoder

STAFF:

Rick French, County Manager

Jamie Starnes, Clerk to the Board

The Alexander County Board of Commissioners held a regular meeting on Monday, August 15, 2011 at the CVCC / Alexander Center in Room 103, Taylorsville, North Carolina.

CALL TO ORDER

Chairman Robertson called the meeting to order at 6:05 PM.

INVOCATION & PLEDGE OF ALLEGIANCE

Chairman Robertson gave the invocation and Commissioner Mayberry led the Pledge of Allegiance to the Flag.

COMMISSIONER'S REPORT

Chairman Robertson mentioned the 8 firefighters from Asheville who were recently injured in the line of duty, including Captain Jeffrey Scott Bowman who lost his life. He asked everyone to remember the family members of these individuals.

Commissioner Jennings discussed the recall elections in Wisconsin related to those who voted to end collective bargaining and remove benefits from state workers. He also noted that Wisconsin Governor Scott Walker had turned a \$1.3 billion deficit into a \$350 million surplus and he hoped that would be an example nationally.

Commissioner Moose stated that she recently visited the County landfill and was very proud of the way it looked, noting that the grass was mowed and there was no litter along the roadway into the landfill. She commended the staff for the service they were providing to the citizens.

Commissioner Jennings thanked Representative Hollo and Senator Soucek for their efforts in reigning in government spending during budget discussion in Raleigh.

ADOPTION OF AGENDA

Chairman Robertson requested the addition of Budget Amendment #7 to the agenda.

Commissioner Yoder made a motion to adopt the agenda as amended. Commissioner Jennings seconded the motion. The Board voted unanimously in favor of the motion.

2010 CENSUS REPORT

Tom Bell, WPCOG GIS Analyst, gave a power point presentation reviewing the 2010 census report, which included the following comparisons between Alexander County and the Hickory Metro area:

- Population totals 1960-2010
- Population growth by race/origin and age groups 2000-2010
- Household composition average number of persons per household 1970-2010, group quarters and household type 2000-2010
- Housing number of units 1970-2010, occupied and vacant units 1990-2010, building permits 2000-2010, foreclosure cases 2000-2010

Other items pointed out were that the average yearly wage in Alexander County was \$28,548 compared to the state average of \$41,132. The 2030 population projections also show that Alexander County will see a large increase in population while Catawba's growth will be moderate, Caldwell's will be even, and Burke's will decline.

RECOMMENDATION TO OBTAIN FEES FOR THE ROADWAYS, RIGHT OF WAY AREAS, AND SIDEWALKS ORDINANCE

Chairman Robertson reported that Sheriff Bowman wished to charge a \$50 fee to individuals applying for permits in relation to this ordinance to exclude any civic or non-profit group as well as churches.

Commissioner Mayberry pointed out that this cost would off-set the time staff spent performing background checks on applicants.

Chairman Robertson made a motion to approve the fee amount. Commissioner Mayberry seconded the motion. The Board voted unanimously in favor of the motion.

VOTING DELEGATE FOR NCACC ANNUAL CONFERENCE

Commissioner Yoder made a motion to nominate Commissioner Jennings to serve as the Voting Delegate for the NCACC Annual Conference to be held in Concord on August 18-21, 2011. Commissioner Mayberry seconded the motion.

Commissioner Jennings advised that he would be leaving the conference on Saturday morning and would not be present to vote at sessions that day. Therefore, Commissioner Mayberry made a motion to remove the nomination of Commissioner Jennings as Voting Delegate. Commissioner Moose seconded the motion. The Board voted unanimously in favor of the motion.

Commissioner Jennings made a motion to nominate Commissioner Yoder as Voting Delegate. Commissioner Mayberry seconded the motion. The Board voted unanimously in favor of the motion.

APPOINT NCACC DISTRICT DIRECTOR

Chairman Robertson requested any nominations for the NCACC District Director for District 13 (Alexander, Burke, Caldwell, and Catawba). Caucuses will be held at the NCACC Annual Conference on Saturday, August 20th where a nominating and election process will take place. The chosen director will serve a 2-year term to commence with the swearing in at the business session.

Chairman Robertson made a motion to nominate Commissioner Yoder. Commissioner Jennings seconded the motion. The Board voted unanimously in favor of the motion.

BUDGET ORDINANCE AMENDMENTS #5 - #7

Rick French, County Manager, discussed the purpose of Budget Amendments #5 - #7 as follows:

Budget Amendment #5 – To increase the Sheriff's Department budget to paint a box truck purchased from Iredell County in spring 2011 (state drug funds are being used). To increase the Health Department budget for additional state funds for the Breast Feeding Peer Counselor program. To increase the Health Department budget for the Project Lazarus Grant. To adjust the amount budgeted for the Senior Center Operations Grant revenue to match the report provided by the Home and Community Care Block Grant for Older Adults.

Budget Amendment #6 – To budget for additional local funds to extend the Church Road Water Project south of the original project area (total being increased from \$635,815 to \$780,000).

Budget Amendment #7 - To increase the Governing Body budget for payment of attorney fees related to litigation. To increase the EMS Department budget for reimbursement of back wages to resolve litigation.

Commissioner Mayberry made a motion to approve Budget Amendments #5 - #7. Commissioner Moose seconded the motion. The Board voted 4 in favor of the motion (Commissioners Jennings, Mayberry, Moose, and Robertson) and one against (Commissioner Yoder). The motion carried.

Commissioner Yoder stated that he disagreed with Budget Amendment #7 and the use of funds in this particular manner.

OTHER BUSINESS

Rick French, County Manager, discussed the following issues during Other Business:

- A. The Church Road Water Project started this morning.
- B. A total of \$3,277,885 in sales tax revenues was collected for 2010-2011. This is in excess of the \$3,071,100 budgeted for the year.
- C. The Board has been invited to the Cooperative Extension Report to the People scheduled for August 26, 2011 at 12:00 PM.
- D. There will be two items for action at the August 29th work session.

CONSENT AGENDA

A. Minutes from the August 1, 2011 Regular Commissioners' Meeting.

Commissioner Jennings made a motion to approve the Consent Agenda. Commissioner Mayberry seconded the motion. The Board voted unanimously in favor of the motion.

CLOSED SESSION – N.C.G.S. 143-318.11(a)(1,4, 5, & 6) TO PREVENT THE DISCLOSURE OF CONFIDENTIAL INFORMATION, ECONOMIC DEVELOPMENT, CONTRACTUAL, & PERSONNEL

Chairman Robertson made a motion to enter into Closed Session at 6:53 PM to prevent the disclosure of confidential information and to discuss economic development, contractual matters, and personnel issues pursuant to N.C.G.S. 143-318.11(a)(1, 4, 5, & 6). Commissioner Mayberry seconded the motion. The Board voted unanimously in favor of the motion.

ADJOURNMENT

There being no further business, Commissioner 1	Mayberry made a motion to adjourn at 7:21 PM.
Commissioner Jennings seconded the motion.	The Board voted unanimously in favor of the
motion.	

W. Darrell Robertson, Chairman

Jamie M. Starnes, Clerk to the Board